

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION  
No. 5:19-CV-267-D

ERIC M. MCMILLIAN,

Plaintiff,

v.

JOHN ELLIS, Manager of  
CiCis Pizza Franchise, et al.,

Defendants.

**ORDER**

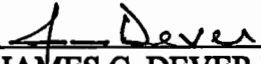
On June 27, 2019, Eric M. McMillian (“McMillian” or “plaintiff”), appearing pro se, applied to proceed in forma pauperis under 28 U.S.C. § 1915 [D.E. 1]. On August 5, 2019, the court referred the motion to Magistrate Judge Jones for frivolity review [D.E. 3]. On August 19, 2019, Magistrate Judge Jones issued a Memorandum and Recommendation (“M&R”) [D.E. 4], and recommended that McMillian’s application to proceed in forma pauperis be granted and that the complaint be dismissed for failure to state a claim. McMillian did not object to the M&R.

“The Federal Magistrates Act requires a district court to make a de novo determination of those portions of the magistrate judge’s report or specified proposed findings or recommendations to which objection is made.” Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005) (emphasis, alteration, and quotation omitted); see 28 U.S.C. § 636(b)(1). Absent a timely objection, “a district court need not conduct a de novo review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Diamond, 416 F.3d at 315 (quotation omitted).

The court has reviewed the M&R and the record. The court is satisfied that there is no clear error on the face of the record. Accordingly, the court adopts the conclusions in the M&R [D.E. 4].

In sum, McMillian's application to proceed in forma pauperis [D.E. 1] is GRANTED, and McMillian's complaint is DISMISSED for failure to state a claim upon which relief can be granted. The clerk shall close the case.

SO ORDERED. This 28 day of January 2020.

  
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JAMES C. DEVER III  
United States District Judge